IN THE

Supreme Court of the United States

OCTOBER TERM, 1970

No. 669

MUNICIPAL DISTRIBUTOR GROUP,
Petitioner,

v.

FEDERAL POWER COMMISSION, *et al.*,
Respondents.

No. 691

ASSOCIATED GAS DISTRIBUTORS,
Petitioners,

v.

AUSTRAL OIL COMPANY, *et al.*,
Respondents.

No. 692

PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK,
Petitioner,

v.

AMERADA HESS CORPORATION, *et al.*,
Respondents.

On Petitions for Writs of Certiorari to the United States Court of Appeals for the Fifth Circuit

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MEMORANDUM FOR RESPONDENTS CONTINENTAL OIL COMPANY, *ET AL.*

Continental Oil Company and Mobil Oil Corporation (Continental, *et al.*), petitioners in No. 680, hereby re-

spond to the petitions in Nos. 669, 691 and 692 which also seek writs of certiorari to review the judgment and opinions entered by the United States Court of Appeals for the Fifth Circuit in this same case on March 19, 1970 and June 16, 1970. In response to these petitions, Continental, *et al.*, state:

1. In Nos. 669, 691, and 692, Texaco, Inc., *et al.*, are filing a brief opposing the petitions in Nos. 669, 691, and 692. Continental, *et al.*, do not oppose the petitions in Nos. 669, 691, and 692 on the grounds of prematurity set forth at pages 7-11 of the Brief for Texaco, *et al.*, but adopt the other grounds for opposing the petitions set forth at pages 12-19 of the Brief for Texaco, *et al.*

2. In the event the petitions in Nos. 669, 691, and 692 are granted, Continental, *et al.*, will not be aligned with the petitioners. In No. 680, Continental, *et al.*, have set forth the questions Continental, *et al.*, believe are presented by the opinions and judgment below, and our view that the Court of Appeals erred in refusing to reverse the Commission on the issues raised by Continental, *et al.*, and remand the case with express directions to the Federal Power Commission to rescind the opinions and orders on review. Therefore, in the event this Court considers the case on the merits, the position of Continental, *et al.*, will be that indicated by the petition in No. 680.

3. In the event the petitions in Nos. 669 and all related cases were granted, Continental, *et al.*, also would not oppose the request of Petitioner The California Company in the related case No. 682 that the case be "summarily remanded to the Court below with instructions to

direct the Commission to reopen the case and proceed to such orders as it deems in the public interest."

Respectfully submitted,

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October 14, 1970

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In the Supreme Court of the United States

OCTOBER TERM, 1970

Nos. 669, 680–685, 691, 692

SOUTHERN LOUISIANA AREA RATE CASES

MUNICIPAL DISTRIBUTOR GROUP, ET AL., PETITIONERS

v.

FEDERAL POWER COMMISSION, ET AL.

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF FOR THE FEDERAL POWER COMMISSION IN OPPOSITION

OPINIONS BELOW

The initial opinion of the court of appeals (Cont. App. A, pp. 1–70)[1] is reported at 428 F. 2d 407. Its opinion on petitions for rehearing (Cont. App. B, pp. 1–3) is not yet reported. The opinions (No. 546) of the Federal Power Commission (Cont. App. D, pp. 1–258) are reported at 40 F.P.C. 530. The Commission's opinion (No. 546–A) on rehearing (Cont. App. E, pp. 1–112) is reported at 41 F.P.C. 301. (Opinions 546 and 546–A are hereinafter referred to as "*Southern Louisi-*

[1] "Cont." references are to the separate appendix to the petition filed by Continental Oil Company in No. 680.